

# **EXHIBIT 3**

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

United States of America,	)	
Plaintiff,	)	
	)	
	)	
vs.	)	Case No. 20-cr-10263-PBS
	)	
	)	
Jim Baugh, also known as	)	
James Baugh,	)	
Defendant.	)	

BEFORE: The Honorable Patti B. Saris

Remote Rule 11

April 25, 2022

Marianne Kusa-Ryll, RDR, CRR  
Official Court Reporter  
United States District Court  
595 Main Street, Room 514A  
Worcester, Massachusetts 01608-2093  
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Mechanical Steno - Transcript by Computer

1 APPEARANCES (REMOTELY):

2 United States Attorney's Office  
3 Seth B. Kosto, Assistant United States Attorney  
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Boston, Massachusetts 02210  
on behalf of the Government

5 Fick & Marx LLP  
6 William W. Fick, Esquire  
7 24 Federal Street  
4th Floor  
8 Boston, Massachusetts 02110  
on behalf of the Defendant

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P R O C E E D I N G S

(The following proceedings were held remotely before the Honorable Patti B. Saris, United States District Judge, United States District Court, District of Massachusetts, on April 25, 2022.)

THE CLERK: The Court calls Criminal Action 20-10263, United States versus Jim Baugh.

Would counsel please identify themselves.

MR. KOSTO: Good morning, your Honor. Seth Kosto for the United States.

MR. FICK: Good morning, your Honor. William Fick for Mr. Baugh. He is here as well via video at our request. He is waiving his presence in the courtroom for this change of plea hearing.

THE COURT: Thank you.

May I ask, Miss Alice, who are you?

THE CLERK: She's supposed to shut off -- Clary, can you shut off her video, please.

THE COURT: Okay. All right. All right. So why are we hear today, Mr. Fick?

MR. FICK: We're here for a Rule 11 hearing for Mr. Baugh to change his plea to the counts of the indictment charging him.

THE COURT: Mr. Baugh, can you -- it's Baugh or Baugh?

THE DEFENDANT: It's Baugh.

1 THE COURT: Baugh. Mr. Baugh, can you hear me and see  
2 me?

3 THE DEFENDANT: I can.

4 THE COURT: Okay. Thank you.

5 Do you waive your right to be here in Massachusetts  
6 in person in the courtroom?

7 THE DEFENDANT: I do.

8 THE COURT: Okay. All right. So do you want to put  
9 him under oath and take the plea, Maryellen.

10 THE CLERK: Yes, I will.

11 THE COURT: Thank you.

12 THE CLERK: Sir, can you raise your right hand.

13 Do you solemnly swear the answers you shall give to  
14 this Court will be the truth, the whole truth, and nothing but  
15 the truth, so help you God?

16 THE DEFENDANT: I do.

17 THE CLERK: Okay. Thank you.

18 Count One: Conspiracy to commit stalking through  
19 interstate travel and through facilities of interstate commerce  
20 all in violation of Title 18 U.S.C. Section 371.

21 How do you plead to Count One, guilty or not guilty?

22 THE DEFENDANT: Guilty.

23 THE CLERK: Okay. Counts Two and Three: Stalking  
24 through interstate travel; aiding and abetting, all in  
25 violation of Title 18 U.S.C. Section 2261A(1) and 2.

1           How to you plead to Counts Two and Three, guilty or  
2 not guilty?

3           THE DEFENDANT: Guilty.

4           THE CLERK: Thank you.

5           As to Counts Six and Seven: Stalking through  
6 facilities of interstate commerce and aiding and abetting, all  
7 in violation of Title 18 U.S.C. Section 2261A(2) and 2.

8           How to you plead to Counts Six and Seven, guilty or  
9 not guilty?

10          THE DEFENDANT: Guilty.

11          THE CLERK: Thank you.

12          As to Counts Ten and Eleven: Witness tampering and  
13 aiding and abetting, all in violation of Title 18 U.S.C.  
14 Section 1512(b) (3) and 2.

15          How do you plead to Counts Ten and Eleven, guilty or  
16 not guilty?

17          THE DEFENDANT: Guilty.

18          THE CLERK: Okay. And as to Counts Thirteen and  
19 Fourteen: Destruction, altercation, and falsification [sic] of  
20 records in a federal investigation; and aiding and abetting,  
21 all in violation of Title 18 U.S.C. Section 1519 and 2.

22          How do you plead to Counts Thirteen and Fourteen,  
23 guilty or not guilty?

24          THE DEFENDANT: Guilty.

25          THE CLERK: Thank you.

1           That's it, Judge.

2           THE COURT: Thank you.

3           Sir, do you understand that you are now under oath and  
4 if you answer any of my questions falsely, your answers can  
5 later be used against you in another prosecution for perjury or  
6 making a false statement?

7           THE DEFENDANT: I understand.

8           THE COURT: What is your full name?

9           THE DEFENDANT: Jim Lance Baugh.

10          THE COURT: Do you go by any other names?

11          THE DEFENDANT: I go by Jim.

12          THE COURT: Jim?

13          THE DEFENDANT: Yeah.

14          THE COURT: No -- no false names or aliases?

15          THE DEFENDANT: No. No.

16          THE COURT: All right. Where were you born?

17          THE DEFENDANT: I was born in Pine Bluff, Arkansas.

18          THE COURT: And how far did you go in school?

19          THE DEFENDANT: I completed graduate school.

20          THE COURT: Where?

21          THE DEFENDANT: University of Oklahoma.

22          THE COURT: All right. And what was the specialty?

23          THE DEFENDANT: I have a master's of public  
24 administration.

25          THE COURT: Okay. Thank you.

1 Did you -- how old are you?

2 THE DEFENDANT: I'm 47.

3 THE COURT: All right. And have you ever been treated  
4 for any mental health issues?

5 THE DEFENDANT: I have not.

6 THE COURT: Have you taken any unlawful drugs in the  
7 last 48 hours?

8 THE DEFENDANT: I have not.

9 THE COURT: Have you had anything to drink in the last  
10 48 hours?

11 THE DEFENDANT: I have not.

12 THE COURT: Yeah -- alcohol -- excuse me.

13 THE DEFENDANT: No, no alcohol.

14 THE COURT: All right. And have you had enough -- I  
15 know you worked a lot with Mr. Fick, and I'm sure people in his  
16 office.

17 Do you feel as if you've had enough time to discuss  
18 this plea with him?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that you're not -- that  
21 you are pleading guilty, as I understand it, without a plea  
22 agreement?

23 THE DEFENDANT: I do.

24 THE COURT: And do you feel in any way as if your  
25 attorney has pressured you into pleading guilty?



1 THE DEFENDANT: I do not.

2 THE COURT: Has anyone pressured you into pleading  
3 guilty?

4 THE DEFENDANT: No.

5 THE COURT: Has anyone threatened you in any way?

6 THE DEFENDANT: No.

7 THE COURT: Have there been any promises made to  
8 you --

9 THE DEFENDANT: No.

10 THE COURT: -- to get you to induce this plea?

11 THE DEFENDANT: No.

12 THE COURT: Let me ask counsel, because sometimes  
13 defendants aren't as aware.

14 Are there any representations or promises with respect  
15 to sentencing or any other issue regarding this case?

16 MR. KOSTO: The government has made none, your Honor.

17 THE COURT: Excuse me.

18 MR. FICK: No, your Honor.

19 THE COURT: Okay.

20 MR. KOSTO: The government has made no promises or  
21 representations regarding sentencing.

22 THE COURT: Okay. Now, to the government at this  
23 point, please state the penalties that could be imposed.

24 MR. KOSTO: Yes, your Honor, on Count One, which is  
25 the conspiracy count under 18 U.S.C. Section 371, that's a

1 maximum term of imprisonment of five years; a \$250,000 fine; a  
2 maximum of three years supervised release; and as to each of  
3 these counts, your Honor, restitution and forfeiture are  
4 applicable.

5 Counts Two and Three, which charge stalking through  
6 interstate travel also carries a maximum term of five years per  
7 count; a \$250,000 fine; and three years of supervised release  
8 maximum.

9 Counts Six and Seven, which are the stalking through  
10 facilities of interstate commerce also for each count carries a  
11 maximum term of five years imprisonment; a \$250,000 fine; and  
12 three years of supervised release per count, although the  
13 supervised release years generally run concurrently.

14 Counts Ten and Eleven, which charge witness tampering  
15 in violation of 18 U.S.C., Section 1512(b)(3), each carry a  
16 potential maximum term of imprisonment of 20 years in prison; a  
17 \$250,000 fine; again three years maximum supervised release.

18 And Counts Thirteen and Fourteen, each of which  
19 charges falsification of documents in violation of 18 U.S.C.  
20 Section 1519 also carries a maximum term of 20 years  
21 imprisonment per count; a \$250,000 fine; and a maximum of three  
22 years supervised release.

23 THE COURT: So there are no mandatory minimums, right?

24 MR. KOSTO: There are no mandatory minimums, your  
25 Honor.

1           THE COURT: I know this is preliminary, and we'll have  
2 to wait for the probation department, but do you have a  
3 preliminary calculation of the United States Sentencing  
4 Commission guideline ranges?

5           MR. KOSTO: Your Honor, we estimate the -- the low end  
6 of the advisory guidelines range to be 57, and the high end to  
7 be 71 months with a Criminal History Category of I, although we  
8 have yet to go through the PSR process.

9           THE COURT: Is that including acceptance of  
10 responsibility?

11          MR. KOSTO: That does include a -- that does include  
12 three points for acceptance, your Honor.

13          THE COURT: Thank you.

14          Mr. Fick, do you have a similar guideline range  
15 calculation, although I'm sure you will be seeking, you know,  
16 departures and variances.

17          MR. FICK: Sure. There's one sort of disputed  
18 enhancement. You know, there's several cases that have already  
19 been -- several cases with a similar guideline basis have been  
20 brought in this case, and the -- there is one in particular  
21 enhancement application that has a two-point swing that is  
22 disputed, and so we would -- I think are likely to contend the  
23 range is 46 to 57, not 57 to 71.

24          I think -- I believe Judge Burroughs is the only  
25 person who has addressed the issue, and I think she kind of

1       punted on it, because the sentence she gave was below the range  
2       anyway. Mr. Kosto can correct me if that's incorrect. But in  
3       any event that will be laid out in the PSR in the objections  
4       and sentencing memos.

5               THE COURT: All right. So there is a bit of a dispute  
6       of the appropriate guideline range, do you understand that?

7               THE DEFENDANT: Yes.

8               THE COURT: Okay. And -- and do you understand though  
9       that what will happen is I will send this to the probation  
10      department, which will calculate a sentencing guideline range,  
11      look at the offense conduct as well as information about you as  
12      a human being and your personal history, and they'll calculate  
13      a guideline range.

14              In a sentencing hearing, you, your lawyer, very  
15      knowledgeable in these things, can object if he thinks the  
16      guideline range is wrong. The government's also quite  
17      knowledgeable. They can object if the government doesn't  
18      believe in the guideline range, and at that point I will rule  
19      on the objections.

20              Do you understand that?

21              THE DEFENDANT: I do.

22              THE COURT: And then at that point, both sides could  
23      ask for a variance or a departure because you're pleading  
24      without a plea agreement; do you understand that?

25              Both sides are free to ask for departures or variances

1 under the guidelines; do you understand that?

2 THE DEFENDANT: I do.

3 THE COURT: And at that point what I will do is I will  
4 impose a sentence. If you disagree with the sentence, you can  
5 appeal the sentence, but you can't at that point withdraw your  
6 guilty plea.

7 Do you understand that?

8 THE DEFENDANT: I understand.

9 THE COURT: Okay. And do you understand that by  
10 pleading guilty you're essentially -- your counsel, as well as  
11 I guess together with the codefendant filed many, many motions,  
12 which I've ruled on I think most of them; and at this point,  
13 that means you're basically giving up your claims with respect  
14 to those motions.

15 Do you understand that?

16 THE DEFENDANT: I do.

17 MR. FICK: Your Honor, if I could just interject. The  
18 one thing that I think we would argue is not moot is the  
19 lingering issues under the subpoena motion to eBay, because  
20 some of that information could be pertinent to sentencing.

21 THE COURT: You know, I was going to ask you about  
22 that.

23 MR. FICK: So we're not --

24 THE COURT: So I haven't yet --

25 MR. FICK: Right.

1           THE COURT:  -- ruled on that, I believe, and I was  
2 going to ask you precisely that question.

3           So let me just at least at this point say I've ruled  
4 on the motion to dismiss for multiplicity, for failure to state  
5 a claim; I've ruled on the motion to compel and the motion  
6 involving venue.

7           The one outstanding thing is that motion to quash.  So  
8 I'll -- can I get to that later?  I don't think that's critical  
9 right now.

10          MR. FICK:  Of course, of course, we have plenty of  
11 time until sentencing, your Honor.

12          THE COURT:  Okay.  Okay.

13          MR. FICK:  I just want to be clear we're not waiving  
14 that today.

15          THE COURT:  I get that.  Thank you.

16          MR. FICK:  Thank you.

17          THE COURT:  Other than that one issue Mr. Fick just  
18 raised do you understand that you're waiving all those issues  
19 that were presented to me?

20          THE DEFENDANT:  I understand, yes.

21          THE COURT:  All right.  And I want to go through the  
22 very important rights that you're giving up by pleading guilty,  
23 and let me start since your Criminal History Category I, which  
24 means you haven't got any -- probably don't have any felony  
25 convictions on your record.

1           Do you understand you're giving up the right to a jury  
2 trial -- excuse me -- that -- that a felony conviction will  
3 deprive you of certain important rights, such as the right to  
4 vote, the right to hold public office, the right to serve on  
5 juries, and the right to possess a firearm and -- so many  
6 collateral consequences, I couldn't outline them here now  
7 having to do with licensing and that sort of thing.

8           Do you understand it will have that collateral  
9 consequence?

10          THE DEFENDANT: Yes.

11          THE COURT: And similarly, do you understand that by  
12 pleading guilty you're giving up some very important  
13 constitutional rights; for example, you have a right to  
14 representation by counsel at each and every stage of the  
15 proceeding; do you understand that?

16          THE DEFENDANT: Yes.

17          THE COURT: If you could not afford Mr. Fick or  
18 somebody else, I could appoint counsel for you.

19          Do you understand that?

20          THE DEFENDANT: Yes.

21          THE COURT: Do you understand that you would be  
22 entitled to a jury trial, which means 12 people chosen at  
23 random from the community, 12 citizens would have to decide  
24 you're guilty beyond a reasonable doubt before you could be  
25 convicted?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that proof beyond a  
3 reasonable doubt's a very high standard and the government  
4 always bears it; do you understand that?

5 THE DEFENDANT: I do.

6 THE COURT: The one -- the one area that is a little  
7 bit of a lower standard is venue, and that would be by a  
8 preponderance, and you're giving up the right to force the  
9 government to prove venue.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that the jury verdict  
13 has to be unanimous?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that you would have the  
16 right to cross-examine the government's witnesses; and as you  
17 just heard, your attorney's subpoenaed some people and has a  
18 right to subpoena people; do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: And you're giving up the right not only to  
21 cross-examine the government's witnesses, but to present your  
22 own; do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: And do you understand you have the  
25 privilege against self-incrimination, which means you can't be



1 forced to testify against yourself?

2 THE DEFENDANT: I understand.

3 THE COURT: And -- but if you wanted to, you could  
4 testify on your own behalf; do you understand that?

5 THE DEFENDANT: I do.

6 THE COURT: And present evidence which you have no  
7 requirement to do so; do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. And understanding all these  
10 very important rights do you still want to plead guilty?

11 THE DEFENDANT: I do.

12 THE COURT: Okay. Now, I'm going to ask the  
13 government to state the evidence that you would introduce at  
14 trial.

15 Now, there's -- there's still a codefendant,  
16 Mr. Harville, so to some extent some of these counts overlap  
17 with his, but some don't.

18 So should we go count by count, and I should take the  
19 plea, or are you going to do it all at once, Mr. Kosto?

20 What makes the most sense because it's a very long  
21 indictment?

22 MR. KOSTO: Your Honor, I'd propose to describe  
23 the -- the facts that apply most generally to the conspiracy  
24 Count One, and then pick up any remaining facts as to the  
25 substantive counts in that single description.

1 THE COURT: Thank you.

2 MR. KOSTO: May I proceed?

3 THE COURT: Yes.

4 MR. KOSTO: And I apologize, your Honor, I forgot to  
5 mention with respect to the statutory -- statutory maximums.  
6 There would be a \$900 special assessment that the Court is  
7 inquire -- required to impose. I apologize for leaving that  
8 out.

9 THE COURT: Thank you.

10 And while you're on it, that's a good comeback. Has  
11 there been any discussion of the amount of restitution to this?

12 MR. KOSTO: We should have more to say about that at  
13 sentencing, your Honor.

14 THE COURT: So there has been no agreement -- that  
15 might be -- in other words, that might take a longer time?

16 MR. KOSTO: I don't believe it will -- it should  
17 require any additional time.

18 THE COURT: All right. Well, it's not essential right  
19 now, but right now we don't know what that number would look  
20 like?

21 MR. KOSTO: I think that's correct, your Honor.

22 THE COURT: Have you talked that over, sir, Mr. Fick,  
23 with Mr. Baugh?

24 MR. FICK: I mean, we've talked about it in general  
25 terms. There's also a civil case by the -- the -- the -- the

1 affected parties out there against Mr. Baugh and others. So  
2 we've talked about these issues. So he understands there's  
3 uncertainty with regard to those issues.

4 THE COURT: Okay. Thank you very much.

5 All right. I'm sorry to interrupt. Go ahead, sir.

6 MR. KOSTO: Thank you, your Honor.

7 Had the case proceeded to trial, the United States  
8 would have proven beyond a reasonable doubt each of elements of  
9 the five charged offenses, through and among other evidence,  
10 witness testimony, including the testimony of witnesses  
11 cooperating with the government's investigation; physical  
12 evidence; electronic communications, including those to the  
13 victims, between and among the coconspirators, and to and from  
14 third parties, as well as the use of business records.

15 And what that evidence would show, the government  
16 submits beyond a reasonable doubt, is that between  
17 approximately August 5, 2019, and August 23, 2019, the  
18 defendant, Mr. Baugh, and several coconspirators, all whom  
19 worked at eBay, Inc., the multinational e-commerce company,  
20 agreed to engage in a harassment campaign that targeted a  
21 husband and wife who lived in Natick, Massachusetts. They're  
22 described in the indictment as Victim 1 and Victim 2.

23 The coconspirators included Mr. Baugh, who was then  
24 eBay's senior director of safety and security --

25 THE COURT: Can I step you right then --

1 MR. KOSTO: Yes, your Honor.

2 THE COURT: -- because it just occurred to me, I want  
3 to make sure since this is a critical stage in the proceedings,  
4 they've been -- I assume the two of them have been notified of  
5 these proceedings?

6 MR. KOSTO: And I have seen the -- I'm aware that the  
7 victims both planned to attend, and I see at least a connection  
8 from one of them on the Zoom, and I assume they're together.

9 THE COURT: Okay. I should have asked -- I should  
10 have asked that earlier. I'm sorry. I interrupted. Go ahead.

11 MR. KOSTO: No, thank you for clarifying. And, yes,  
12 they are aware of the proceeding, and I believe they're both in  
13 attendance today.

14 I mentioned Mr. Baugh, who was the senior director of  
15 safety and security at eBay; Stephanie Popp, a coconspirator,  
16 who was eBay's senior manager of global intelligence; David  
17 Harville, Mr. Baugh's codefendant, who was eBay's director of  
18 global resiliency; Brian Gilbert and Philip Cooke, two retired  
19 San Jose, California, police captains, who worked on eBay's  
20 global security team; Stephanie Stockwell, an eBay intelligence  
21 analyst, who managed eBay's Global Intelligence Center, which I  
22 may refer to as the GIC; and Veronica Zea, an eBay contractor  
23 who was assigned to the GIC.

24 The campaign, your Honor, targeted Victims 1 and 2 for  
25 their roles in publishing a newsletter that reported on issues

1 of interest to eBay sellers. Senior executives at eBay were  
2 frustrated with the newsletter's tone and content, and with the  
3 tone and content of comments that appeared underneath the  
4 newsletter's articles online. The harassment campaign arose  
5 from communications between those senior executives and  
6 Mr. Baugh, who was at that time eBay's senior security  
7 employee.

8 The campaign, which was intended to intimidate and  
9 harass the victims, was, of course, a conduct that included,  
10 first, sending threatening messages and communications to the  
11 victims over Twitter, which was an instrumental --  
12 instrumentality of interstate commerce.

13 Second, ordering unwarranted and disturbing deliveries  
14 to the victims' home.

15 And third, Zea, Harville, Mr. Baugh, and Popps [sic]  
16 traveled to Natick to surveil the victims in their home and  
17 community. The deliveries ordered to the victims's homes  
18 included a book on surviving the death of a spouse, a bloody  
19 pig mask, a fetal pig, a funeral wreath, and live insects. The  
20 harassment also featured Craigslist posts that invited the  
21 public for sexual encounters or estate sales at the victims's  
22 home.

23 The threatening Twitter messages were written to  
24 Victim 1 and sometimes addressed to Victim 2 by name as if they  
25 had been sent by eBay sellers who were unhappy with the

1 victims's coverage of eBay in the newsletter. Some of these  
2 messages posted the victims's addresses publicly on the  
3 Internet, a concept known as doxing, and threatened to visit  
4 the victims at their home.

5 An August 29th -- an August 22, 2019, message stated,  
6 for example, At newsletter 20 years of lies and destroying  
7 families. Don't be proud of that you worthless bitch. I will  
8 destroy your family and business too. See how you like it.

9 Another involved the author of one post asking another  
10 when the two were going to visit Victim 1 in Natick.

11 Mr. Baugh intended for the harassment and intimidation  
12 to distract the victims from publishing the newsletter, to  
13 change the newsletter's coverage of eBay, and ultimately to  
14 enable eBay to contact the victims to offer assistance with the  
15 harassment, what the government has called a "White Knight  
16 Strategy." The White Knight Strategy would earn goodwill with  
17 the victims such that they might help eBay learn the identity  
18 of Phytomaster, an anonymous online persona who frequently  
19 posted negative comments about eBay underneath the newsletter's  
20 articles and thereby allow eBay to discredit both Phytomaster  
21 and the victims.

22 Mr. Baugh, Harville, Zea, and -- and Ms. Zea also flew  
23 to Boston and then drove immediately to Natick on August 15,  
24 2019. Mr. Baugh and Mr. Harville intended to install a GPS  
25 tracking device on the victim's car, but it was safely locked

1 in their garage at the time.

2 The victims spotted the surveillance team on  
3 August 16th, which led them to call the Natick Police  
4 Department -- which I'll refer to as the NPD -- in fear. Zea  
5 and Mr. Baugh and Ms. Popp, who arrived to replace Mr. Harville  
6 on August 17th, continued that surveillance even after having  
7 been spotted by the victims.

8 The NPD which began investigating the deliveries, the  
9 threats and the surveillance connected Ms. Zea and Mr. Harville  
10 to two rented cars and then to eBay. The NPD reached out to  
11 the company for assistance; and when Mr. Baugh learned that the  
12 NPD was making inquiries, he and his coconspirators took steps  
13 to prevent the NPD from learning about eBay's involvement in  
14 the harassment campaign. This included sending Brian Gilbert,  
15 one of the retired police captains, to a meeting with the NPD  
16 at which Mr. Gilbert made false statements about Zea and  
17 Harville's and eBay's involvement.

18 Mr. Baugh and several of his coconspirators also made  
19 false statements to internal investigators at eBay who they  
20 knew were attempting to respond to the NPD's request for  
21 information and assistance.

22 Mr. Baugh and other coconspirators also deleted  
23 digital evidence related to the cyberstalking campaign and  
24 falsified records intended to throw the NPD off the trail.

25 As these events were unfolding, the NPD referred the

1 victims's harassment matter to the FBI for investigation in  
2 late August of 2019.

3 On or about the dates below, Mr. Baugh took the  
4 following additional steps in furtherance of the conspiracy  
5 charged in Count One of the indictment or in an attempt to  
6 obstruct the investigation into it.

7 And with respect to the Counts Two and Three, the  
8 interstate travel in furtherance of stalking, the evidence  
9 would show that on August 15, 2019, Mr. Baugh flew interstate  
10 from California to Boston with Ms. Zea; and that upon arrival  
11 at Logan Airport, the pair met up with Mr. Harville, rented  
12 cars and drove out to the victims's residence in Natick in that  
13 unsuccessful attempt to install a GPS device on the victim's  
14 car.

15 With respect to Counts Six and Seven, the use of the  
16 instrumentalities of interstate commerce in furtherance of  
17 stalking, the evidence would show that on August 5, 2021,  
18 Mr. Baugh convened a meeting at the GIC at eBay's corporate  
19 headquarters with Stephanie Stockwell, Veronica Zea, Stephanie  
20 Popp and others. He directed them to brainstorm the harassing  
21 packages that could be sent to the victims's residence. This  
22 meeting led to the delivery of the harassing packages that I  
23 described a moment ago.

24 On or about August 6, 2019, Mr. Baugh convened a  
25 second meeting among himself, Mr. Gilbert, Ms. Popp, and



1 Mr. Cooke. In that meeting, Mr. Baugh and those in attendance  
2 planned the online harassment that would lead to the White  
3 Knight Strategy that I described a moment ago, and that led to  
4 the delivery of those harassing and threatening communications  
5 that I described a moment ago.

6 In Natick, during the course of surveilling Victim 1  
7 and Victim 2, Mr. Baugh dialed into a telephone conference line  
8 and used that facility of interstate commerce to communicate  
9 with other members of the surveillance team in part to monitor  
10 any police activity that might compromise the surveillance  
11 team.

12 Mr. Baugh also used WhatsApp in a facility of  
13 interstate commerce to communicate with his coconspirators  
14 about the surveillance and about the content of the harassing  
15 messages that would be sent to Victims 1 and 2.

16 As to Count Ten, the first of the witness tampering  
17 counts, your Honor, on August 21, 2019, at approximately  
18 9:34 a.m. at Boston's Ritz Carlton Hotel the evidence would  
19 show that with the intent to prevent NPD Detective Jason  
20 Sutherland from speaking with Ms. Zea, Mr. Baugh falsely told  
21 the detective that Ms. Zea was his wife. Mr. Baugh also stated  
22 that Ms. Zea didn't want to speak with the detective; and  
23 within 10 minutes Mr. Baugh took -- took Ms. Zea away from the  
24 Ritz Carlton where the police were looking to speak with her to  
25 another Boston area hotel.

1           As to Count Eleven, a second obstruction count, your  
2 Honor. By August 22, 2019, and thereafter, Mr. Baugh engaged  
3 in misleading conduct, including making false statements and  
4 statements that omitted certain material facts to eBay  
5 investigators, including eBay corporate counsel, internal  
6 counsel.

7           The statements which Mr. Baugh made to keep eBay and  
8 the NPD from learning about eBay's role in the campaign  
9 included that Mr. Baugh's team was not responsible for sending  
10 harassing deliveries or messages to the victims; that his team  
11 had been to Natick to investigate threats to the victims and  
12 that Mr. Harville had gone to Boston to attend a conference.

13           As to Count Three, the first of the falsification  
14 counts, your Honor, the evidence would show that on August 21,  
15 2019, Mr. Baugh learned from Brian Gilbert, who had attended  
16 the meeting with the NPD, that the NPD was looking into the use  
17 of a prepaid debit card in the San Jose, California, area to  
18 purchase one of the harassing deliveries.

19           Veronica Zea, one of the coconspirators, had, in fact,  
20 made that purchase using that prepaid debit card, but Mr. Baugh  
21 directed a subordinate, Stephanie Stockwell, to assemble a list  
22 of eBay, quote, persons of interest in the Bay area that could  
23 be used to throw the NPD off the trail of Ms. Zea as a suspect,  
24 and that persons of interest list did not include Ms. Zea's  
25 name.

1           As to Count Fourteen, a second falsification and  
2       destruction count, your Honor, on or about August 26, 2019,  
3       there was a meeting at eBay headquarters among Mr. Baugh and  
4       his coconspirators, and during that meeting Mr. Baugh directed  
5       the group to delete their WhatsApp and electronic messages  
6       concerning the trip to Boston and the harassment of the  
7       victims.

8           Together, your Honor, those facts, the government  
9       respectfully submits, would provide the Court an adequate  
10      factual basis to accept a plea as to each of the charged  
11      offenses in the indictment, specifically Count One, Counts Two  
12      and Three, Counts Six and Seven, Counts Ten and Eleven, and  
13      Counts Thirteen and Fourteen.

14           THE COURT: Thank you.

15           Mr. Baugh, do you disagree with any of those facts?

16           THE DEFENDANT: I do not.

17           THE COURT: So do you happen to have the indictment in  
18      front of you?

19           THE DEFENDANT: I have it on my computer. I can pull  
20      that up.

21           THE COURT: Well -- well, here's the thing. I'm not  
22      going to read the entire indictment, we'd be here for the rest  
23      of the day, but I am going to read the counts, and I didn't  
24      know if you wanted, because I'm going to ask you to plead one  
25      by one, and it's not essential that you have them, but

1 sometimes it's easier to read along rather than just listen,  
2 so...

3 THE DEFENDANT: I have it up now.

4 THE COURT: Okay. Great. So I'm starting with Count  
5 One, sir, which is conspiracy to commit stalking through travel  
6 and through facilities of interstate commerce in violation of  
7 18 U.S.C. Section 371 -- I think it's on page 14.

8 Do you have that up?

9 THE DEFENDANT: I do.

10 THE COURT: Okay. So do you plead guilty knowingly,  
11 freely, and voluntarily to Count One, that is, from on or about  
12 August 5, 2019, through at least September 6, 2019, in the  
13 District of Massachusetts and elsewhere that you, Jim Baugh,  
14 together with David Harville, conspired with each other and  
15 with others known and unknown to the grand jury, to commit  
16 offenses against the United States, to wit: a. stalking  
17 through interstate travel, that is, to travel in interstate  
18 commerce with the intent to harass, intimidate, and place under  
19 surveillance with intent to harass and intimidate another  
20 person, and in the course of, and as a result of, such travel,  
21 engage in conduct that caused, attempted to cause, and would be  
22 reasonably be expected to cause substantial emotional distress  
23 to a person, that is Victims 1 and 2, in violation of 18 U.S.C.  
24 Section 2261(A)(1)(B); and plead guilty to b. stalking through  
25 facilities of interstate commerce, that is, with the intent to

1 harass, intimidate, and place under surveillance with intent to  
2 harass and intimidate another person, use the mail, any  
3 interactive computer service, electronic communication service,  
4 electronic communication system of interstate commerce, and any  
5 other facility of interstate and foreign commerce to engage in  
6 a course of conduct that caused, attempted to cause, and would  
7 be reasonably expected to cause substantial emotional distress  
8 to a person, specifically, Victims 1 and 2, in violation of  
9 18 U.S. Code Section 2261(A) (2) (B). All in violation of  
10 18 U.S.C. Section 371.

11 Do you plead guilty knowingly, freely, and voluntary  
12 to Count One?

13 THE DEFENDANT: I do.

14 THE COURT: Count Two and Three, I suppose. Yes,  
15 because it involves the two separate victims.

16 From -- do you plead guilty to Counts Two and Three  
17 that from on or about August 15, 2019, through on or about  
18 August 23, 2019, in the District of Massachusetts and elsewhere  
19 that you did travel in interstate commerce with intent to  
20 harass, intimidate, and place under surveillance with intent to  
21 harass and intimidate another person, and in the course of, and  
22 as a result of, such travel engaged in conduct that caused,  
23 attempted to cause, and would be reasonably expected to cause  
24 substantial emotional distress to the persons described below:  
25 Count Two, Victim 1; Count Three, Victim 2, in violation of

1 18 U.S.C. Section 2261A(1) (B) and 2.

2 Do you plead guilty knowingly, freely, and voluntarily  
3 to Counts Two and Three?

4 THE DEFENDANT: Yes.

5 THE COURT: Now, we're moving on to Counts, I believe,  
6 Six and Seven.

7 Do you plead guilty -- and again it involves the two  
8 victims.

9 Do you plead guilty from on or about August 5, 2019,  
10 through on or about August 23, 2019, in the District of  
11 Massachusetts and elsewhere that you did with intent to harass,  
12 intimidate, and place under surveillance with the intent to  
13 harass and intimidate another person, use the mail, an  
14 interactive computer service, electronic communication service,  
15 electronic communication system of interstate commerce, and  
16 other facilities of interstate commerce to engage in a course  
17 of conduct that caused, attempted to cause, and would be  
18 reasonably expected to cause substantial emotional distress to  
19 the persons described below: Count Six, Victim 1; Count Seven,  
20 Victim 2, in violation of 18 U.S.C. Section 2261A(2) (B) and 2.

21 Do you plead guilty knowingly, freely, and voluntarily  
22 to Six and Seven?

23 THE DEFENDANT: Yes.

24 THE COURT: I guess we can go up to Counts Ten and  
25 Eleven, the witness tampering and aiding and abetting.

1           Do you plead guilty from on or about August 20th  
2           through on or about August 30, 2019, in the District of  
3           Massachusetts and elsewhere that you, the defendant, did  
4           knowingly engage in misleading conduct toward the persons  
5           described below, with intent to hinder, delay, and prevent the  
6           communication to a law enforcement officer of the United States  
7           of information relating to the commission and possible  
8           commission of a federal offense, that is, the conspiracy  
9           described in Count One of the indictment; and that the object  
10          of the misleading conduct in Count Ten was the Natick Police  
11          Department detective; and with respect to Count Eleven was the  
12          eBay internal investigator, all in violation of 18 U.S.C.  
13          Section 1512(b) (3) and 2.

14           Do you plead guilty knowingly, freely, and  
15          voluntarily?

16           THE DEFENDANT: Yes.

17           THE COURT: And, finally, with respect to Counts  
18          Thirteen and Fourteen. Do you plead guilty to on or about the  
19          dates set forth below in the District of Massachusetts and  
20          elsewhere that you did knowingly alter, destroy, conceal and  
21          falsify the records, documents, and tangible objects below with  
22          the intent to impede, obstruct, and influence the investigation  
23          and proper administration of a matter within the jurisdiction  
24          of any department and agency of the United States, that is, the  
25          conspiracy charged in Count One of the indictment. Count

1 Thirteen, the date was August 21, 2019, the Bay area -- POI is  
2 persons of interest, I assume; is that right? Do I have that  
3 right?

4 THE DEFENDANT: You do.

5 THE COURT: Okay. August 2019 docx; and Count  
6 Fourteen, August 26th to the 30th, records on eBay issued-cell  
7 phone, all in violation of 18 U.S.C. Section 1519 and 2, do you  
8 plead guilty knowingly, freely, and voluntarily?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. I think that's it. I'm about  
11 to accept this plea.

12 Would you like to discuss anything with your attorney  
13 or me first?

14 THE DEFENDANT: Not at this time, no.

15 THE COURT: Okay. I find the plea is knowing and -- I  
16 find you're competent and capable of entering into an informed  
17 plea, and that the plea is knowing and voluntary concerning  
18 each of the essential elements of the offense, and I accept it.

19 What is the date of sentencing? Maryellen, have you  
20 already worked that out?

21 THE CLERK: I did, Judge, yes. We gave them  
22 September -- hold on. I think it was the 29th. 29th at 2:30.  
23 September 29th at 2:30; is that okay?

24 THE COURT: Well, so far, yes.

25 MR. FICK: Yes, your Honor, thank you.



1           THE COURT: As I understand it, I heard from probation  
2           that there are no problems with the meeting the conditions of  
3           release; is that correct?

4           MR. FICK: That's correct, your Honor.

5           MR. KOSTO: That is, your Honor.

6           THE COURT: So I just put you -- I just maintain those  
7           same correct conditions and leave you out on bail until that  
8           period of time.

9           Is there -- so now there are a few other things that I  
10          think we need to talk about.

11          One is recently I've had a number of these hearings  
12          where restitution is then put off for another 90 days, and that  
13          sort of prolongs things. So I would encourage you to either  
14          discuss this beforehand, and we'll combine a restitution  
15          hearing with a sentencing hearing, as you said, Mr. Fick, that  
16          there may be one contest with respect to the guideline ranges,  
17          but ideally speaking, you would together at your sentencing  
18          memo put together a restitution memo if it's not agreed upon.  
19          So that would be very helpful just to get this moving.

20          The second thing is, Mr. Fick, I brought up the one  
21          question I had in mind, which is we were pretty close to  
22          issuing an opinion, and we weren't sure whether or not it was  
23          moot or not. You are still looking for some of this  
24          information, I take it, for the sentencing hearing; is that  
25          correct?

1 MR. FICK: That's correct, your Honor.

2 THE COURT: All right. So we will be issuing  
3 something.

4 Do you know, Mr. Kosto, whether or not Mr. Harville  
5 has -- oh, see, that's not such a big rush shall I say. That's  
6 easily -- I can get that out by then. The concern I have is do  
7 you know whether Mr. Harville -- we couldn't find whether for  
8 sure he joined in on that or not.

9 MR. KOSTO: Sorry, on the --

10 THE COURT: It was Mr. -- it was Mr. Baugh's --  
11 Baugh's motion.

12 MR. KOSTO: The motion -- the motion for the Rule 7 --  
13 the Rule 17 subpoenas or the motion for additional information  
14 regarding Mr. -- Mr. Baugh's past --

15 THE COURT: I've already ruled on the motion to  
16 compel. You've received that, but I'm worried --

17 MR. KOSTO: Yes.

18 THE COURT: -- right now about the 17(c) subpoena  
19 because we still have a trial date.

20 When's Mr. Harville's trial?

21 MR. KOSTO: May 31, your Honor.

22 THE COURT: May 31, and that's still going forward,  
23 right, as far as you know?

24 MR. KOSTO: As far as I know, your Honor.

25 THE COURT: Okay. So I may have to get that out. I

1 don't know whether he has joined in that so...

2 MR. KOSTO: I believe he did join in Mr. Fick's  
3 motion.

4 I see Mr. Gelb on camera now. I'm sure he would be  
5 happy to speak to it, your Honor. He represents Mr. Harville.

6 THE COURT: Hello, Mr. Gelb.

7 MR. GELB: Good morning, your Honor.

8 THE COURT: Good morning.

9 MR. GELB: Good morning. We -- we had joined in on it  
10 orally, your Honor.

11 THE COURT: Oh, you did orally. Okay. I just -- I  
12 just wasn't sure where we were all left with that motion. So  
13 we will get something out with that.

14 And, Mr. Gelb, is that likely to be a trial at this  
15 point?

16 MR. GELB: Nothing is -- no status has changed as of  
17 our position at this point, your Honor.

18 THE COURT: Okay. So, I just have a case backed up  
19 behind you. So I just want to let them know fairly what's  
20 going on. So, I'm sure we'll be in touch, but right now that  
21 17(c) subpoena's still very much alive you're telling me?

22 MR. GELB: We -- it is, your Honor, relative to --  
23 we're not waiving that issue as well.

24 THE COURT: Okay. Was there anything else that needed  
25 to be discussed at this point?

1 MR. KOSTO: Not from the government, your Honor.  
2 Thank you.

3 THE COURT: All right.

4 MR. FICK: I don't believe so, your Honor. Thank you.

5 THE COURT: All right. Thank you.

6 So we have finished this hearing at this point, and  
7 we'll see you in September. I guess that's it right now.

8 THE CLERK: Judge, Mr. -- Mr. Gelb's case,  
9 Mr. Harville, they have a pretrial conference scheduled for  
10 Thursday, May 19th, at 2:30. That's --

11 THE COURT: So that's really helpful. I'm on trial in  
12 the morning so it has to be in the afternoon, but -- so we'll  
13 hold it then. And I guess I did say -- I forgot one key thing,  
14 do you want sentencing in person?

15 MR. FICK: Yes, your Honor, I mean, our intention at  
16 this time absent some dramatic change and circumstance would be  
17 to do the sentencing in person.

18 THE COURT: I -- I like that actually. I prefer that.

19 MR. FICK: Yes.

20 THE COURT: I think -- so -- and also to make sure  
21 that the victims know. You say they're on the phone or some  
22 are on the phone as to whether or not they want to say  
23 anything.

24 MR. KOSTO: The victims intend to speak at sentencing.  
25 They prefer the sentencing to take place in person, and the

1 government does as well.

2 THE COURT: Yes, I think we're all on the same page  
3 there. It's much easier. This feels -- you know, I just see a  
4 little tiny box with Mr. Baugh in it, so I prefer to -- it  
5 feels more -- I feel like I'm more connected to what's going on  
6 when we're all in person. So unless somebody has a major COVID  
7 outbreak, that's what I plan to do.

8 Thank you.

9 MR. FICK: Thank you, your Honor.

10 THE COURT: Okay. Thank you. And we'll be seeing you  
11 soon, Mr. Gelb.

12 MR. GELB: Thank you, your Honor.

13 MR. KOSTO: Thank you, your Honor.

14 THE COURT: All right. We'll stand in recess. Thank  
15 you.

16 THE CLERK: Thank you, everybody.

17 THE COURT: And I accept the plea. Thank you.

18 THE CLERK: Thanks.

19 (At 11:21 a.m., court was adjourned.)  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, Marianne Kusa-Ryll, RDR, CRR, do hereby  
certify that the foregoing transcript is a true and accurate  
transcription of my stenographic notes before the Honorable  
Patti B. Saris, to the best of my skill, knowledge, and  
ability.

/s/ Marianne Kusa-Ryll

05-09-22

Marianne Kusa-Ryll, RDR, CRR

Date

Official Court Reporter